appear in and before the Court fifteen days after service of the aforesaid monition to interpose any claim that they may have upon the aforesaid automobile and in the event of return N. E. I. is made thereto that the said monition be [3] advertised in a newspaper of general circulation in the City of Reno, County of Washoe, State of Nevada, once a week for two weeks.

E. P. CARVILLE,
United States Attorney. [4]

United States of America,
District of Nevada.—ss.

E. P. CARVILLE, being first duly sworn, deposes and says: That he has read the foregoing Libel and knows the contents thereof; that the same is true except as to those matters alleged on information and belief and as to such matters he believes it to be true.

E. P. CARVILLE.

Subscribed and sworn to before me this 31st day of July, 1935.

[Seal] O. E. BENHAM,
Clerk, U. S. District Court.
By J. P. FODRIN,
Deputy.

[Endorsed]: Filed July 31, 1935. [5]

[Title of Court and Cause.—No. 2658.]

## ORDER FOR WARRANT OF SEIZURE AND MONITION.

On reading the libel of information herein, verified and filed on the 31st day of July, 1935, for the seizure and condemnation of the following automobile, to-wit:

> One Chevrolet Coupe, Engine No. 3488804, Serial No. 6CA02-8722, 1935 California license No. 9C2352;

And it appearing therefrom that the aforesaid described automobile was and is in violation of Sections 246 and 247, T 25, U. S. C. A., and that said libel of information states the facts and circumstances wherein the said Sections 246 and 247, T. 25, U. S. C. A. are and were violated, and it further appearing from said Libel of Information that the said described automobile is within the jurisdiction of this Court, to-wit: under the control and custody of Alida C. Bowler, Superintendent of the Reno Indian Colony, at near Reno, Washoe County, State and District of Nevada, [6]

IT IS ORDERED, That a monition and warrant of arrest issue under the seal of this Court and against all persons who may claim the aforesaid described automobile, or who know or have anything to say why the same should not be condemned and forfeited to the United States of America, citing them to appear before this Court at Carson City, Nevada, in the Courtroom of said

Court in the Federal Building on the 3rd day of September 1935, at ten o'clock A. M. for the same and to make their allegations in that behalf; and

IT IS FURTHER ORDERED, That a public notice of such monition be given by the United States Marshal for this District in the Reno Evening Gazette, a daily newspaper published at Reno, Washoe County, Nevada, by the publication of a notice of said monition and warrant of seizure once a week for two successive weeks and that a copy of such monition be personally served on the said Alida C. Bowler, at Stewart, Ormsby County, Nevada, and that a certified copy of said libel and a copy of said monition be served upon the person, or persons claiming said automobile.

DATED: Carson City, Nevada, July 31st, 1935.

FRANK H. NORCROSS,
District Judge.

[Endorsed]: Filed July 31st, 1935. [7]

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[Title of Court and Cause.—No. 2658.]

MONITION AND WARRANT.

THE PRESIDENT OF THE UNITED STATES OF AMERICA:

To the Marshal of the United States of America for the District of Nevada, GREETINGS:

WHEREAS, a libel of information has been filed in the District Court of the United States of

America for the District of Nevada, by E. P. CARVILLE, Esq., United States Attorney for said district, on behalf of the United States, against the following:

One Chevrolet Coupe, Engine No. 3488804, Serial No. 6CA02-8722, 1935 California license No. 9C2352,

now in the custody and under the control of Alida C. Bowler, Superintendent of the Reno Indian Colony, at near Reno, Washoe County, State and District of Nevada, for the reasons and causes in said libel of information set forth, and praying that the usual process and monition and warrant of said Court issued for the seizure and arrest of said [8] automobile and that notice be given all parties claiming an interest therein and that the same be confiscated, condemned, and forfeited to the United States and be disposed of by sale or in such manner as the Court may direct;

YOU ARE HEREBY COMMANDED TO ATTACH the aforesaid described automobile and to take it into your custody until the further order of Court respecting the same.

YOU ARE FURTHER COMMANDED to give due notice to all persons claiming the said automobile, or who know or have anything to say why the same should not be confiscated, condemned and forfeited to the United States of America, by the publication of a copy of this monition and warrant in the Reno Evening Gazette, a newspaper of general circulation in this District, once a week

for two successive weeks, and that any one claiming said automobile appear before this Court at a session thereof to be held at Carson City, Nevada, in the court room of said Court in the Federal Building on the 3rd day of September, 1935, at ten o'clock A. M. of said day then and there to interpose any claim for the same and to make their allegations in that behalf, and what you do and shall have done in the premises do you then and there make return thereof together with this writ.

WITNESS, the Honorable FRANK H. NORCROSS, Judge of said Court, at the City of Carson, in the U. S. District Court in and for the District of Nevada, this 31st day of July, in the year of our Lord one thousand nine hundred and thirty-five, and of our Independence the one hundred and sixtieth.

[Seal] O. E. BENHAM,
Clerk.

By J. P. FODRIN,
Deputy Clerk. [9]

MARSHAL'S RETURN.

I hereby certify that I received the within Writ on the 1st day of August, 1935 and on the 1st day of August in compliance therewith I did seize and take into my possession the within described Chevrolet Automobile and did cause to be published in the Reno Evening Gazette, a newspaper of general circulation, a notice to all interested par-

ties, and affidavit of such publication is attached hereto and made a part of this return.

Dated at Carson City, Nevada this 12th day of August, 1935.

HARRY C. GRAVELLE,
United States Marshal.
By H. D. DICKERSON,
Chief Deputy.

Civil Docket No. 2447. [10]

Form No. 38.

U. S. MARSHAL'S OFFICE,
District of Nevada
Carson City, Nevada
August 1, 1935

Sir:

You will please take notice that the Chevrolet Coupe—California License No. 9C2352 has been attached by me, at the suit of The United States for seizure and sale and will remain in my custody until the final disposition is made.

Respectfully yours,
HARRY C. GRAVELLE
U. S. Marshal.

To master, owner, or person in charge of the above described Chevrolet Coupe. [11]

Form No. 39.

Public Notice of Attachment.

OFFICE OF THE MARSHAL OF THE UNITED STATES,
District of Nevada

Carson City, Nev. Aug. 1, 1935

This Chevrolet Coupe—Cal 9C2352 having been attached by me and now being in my possession by virtue of a Monition and Warrant issued out of the District Court of the United States for the District of Nevada,

NOTICE IS HEREBY GIVEN that any person removing or attempting to remove said Chevrolet Coupe without my written permission, or in any way interfering with said Chevrolet Coupe, its tools or appurtenances or my duly authorized Deputy or Keeper in charge thereof, WILL BE PROSECUTED TO THE EXTENT OF THE LAW.

HARRY C. GRAVELLE
U. S. Marshal. [12]

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[Title of Court and Cause—No. 2658.]

NOTICE TO ALL PERSONS INTERESTED.

NOTICE IS HEREBY GIVEN, That I, HARRY C. GRAVELLE, United States Marshal, in and for the District of Nevada, have heretofore to-wit: on the 1st day of August, 1935, under and by virtue of a Warrant of Arrest, heretofore is-

sued out of the District Court aforesaid, seized and taken into my possession the following described property:

One Chevrolet Coupe, Engine No. 3488804, Serial No. 6CA02-8722, 1935 California license No. 9C2352.

AND NOTICE IS FURTHER GIVEN, That the 3rd day of September, 1935, at the hour of ten o'clock A. M. has been fixed as the time, and the Courtroom of the above entitled Court at Carson City, Ormsby County, State and District of Nevada, has been fixed as the place for the return of process issued to me in relation to the said property, and all persons interested in the said property, *and all persons interested in the said property* are hereby notified to appear, at *teh* aforesaid time and place, and show cause, if any they have why the said property should not be condemned and forfeited to the United States of America.

United States Marshal.

Aug. 2, 9.

HARRY C. GRAVELLE. [13]

County of Washoe
State of Nevada—ss.

Leigh Sanford Being first duly sworn, deposes and says: That he is ~~Chief Clerk of~~ the publisher of the RENO EVENING GAZETTE, a daily newspaper published and printed and of general circulation in the City of Reno, County of Washoe, State of Nevada: That the Legal Notice of which a copy is hereunto attached, was first published in

said newspaper in its issue dated Aug. 2, 1935, and was published in each of the following issues thereafter: Aug. 9 the date of the last publication being in the issue of Aug. 9, 1935.

LEIGH SANFORD

Subscribed and sworn to before me, this the 9th day of August, 1935.

[Seal] PAUL J. SHEA

Notary Public in and for the County of Washoe, State of Nevada.

[Endorsed]: Filed Aug. 12, 1935. [14]

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[Title of Court.]

MINUTES OF COURT, SEPTEMBER 3, 1935.

[Title of Cause—No. 2658.]

Upon motion of Geo. A. Montrose, Esq., attorney for the defendant, and with the consent of Thos. O. Craven, Esq., Assistant United States Attorney, IT IS ORDERED that the defendant herein be, and it hereby is, allowed five days from and after this date in which to file an answer. [15]

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[Title of Court and Cause.—No. 2658.]

ANSWER AND PETITION FOR RETURN OF LIBELLED AUTO.

Comes now, SADIE McGOWAN, a resident of Mono Lake, Mono County, California, through and by her attorney, Geo. A. Montrose Esq., who re-

spectfully answers, alleges and affirms as to the said complaint filed herein, and petitions as follows:

1.

Alleges that she is the owner of a certain automobile, described as being a Chevrolet; Engine No. 3488804, Serial No. 6CA02-8722, California License No. 9C2352. That the said automobile is now in the possession of the United States Marshal. That the auto was taken from the possession of one, Peter McGowan, at the so-called Reno Indian Colony, near Reno, Nevada, on July 4, 1935, allegedly under the provisions of Sections 246 and 247 of Title 25, U.S.C.A. chargng that the sad automobile was used in conveying liquor into Indian Territory.

2.

Defendant denies that she was in *any responsible* for liquor, if such there was, being conveyed in any Indian Territory, and further denies that liquor was conveyed by the said auto into Indian Terri- [16] tory.

3.

Denies that the Reno Indian Colony is an Indian Reservation and therefore alleges that the said Indian Reno Colony is not within the jurisdiction of the United States District Court and does not come under the direct control of the United States laws.

4.

Asserts that the Reno Indian Colony is a part of the State of Nevada and under the jurisdiction of the state courts.

5.

Asserts that the officers of the Indian Department were without the right of search upon the said Reno Indian Colony, and acted without a legal search warrant, and therefore *is* searching and taking the said auto exceeded their authority and did so without due process of law.

6.

Denies the jurisdiction of the Indian Department of the United States over the said Reno Indian Colony, and the lands there held and occupied by the Reno Indian Colony, and therefore Sections 246 and 247, Title 25, U.S.C.A. do not apply to said lands.

7.

Denies the jurisdiction of the United States District Court of the State of Nevada, in or over, the said Reno Indian Colony, or the subject matter of this case.

8.

Denies that the Reno Indian Colony is an Indian Reservation or is Indian land.

WHEREFORE, answering the complaint filed herein defendant prays that the said libel be dismissed without cost to the said defendant, and respectfully petitions that the said automobile hereinbefore described, be returned to the said Sadie McGowan, as the owner there- [17] of, together with all costs accrued, and for such other and further relief as to the Court may appear meet and proper herein.

GEO. A. MONTROSE
Attorney for Defendant.

United States of America
State of Nevada
County of Ormsby—ss.

Geo A. Montrose being duly sworn on behalf of the defendant in the above entitled action, says that he has read the foregoing answer and petition and knows the contents thereof, and that the same is true of his own knowledge, save as to the matters which are therein stated on information or belief and as to those matters he believes it to be true. That the said defendant is absent from the State of Nevada, and Gardnerville, Nevada, where her said attorney resides; and the facts are within the knowledge of this affiant, who is the agent and attorney of said defendant, and therefore makes this affidavit.

GEO. A. MONTROSE

Subscribed and sworn to before me this 4th day of September, 1935.

[Seal] O. E. BENHAM
Clerk, U. S. District Court
By O. F. PRATT
Deputy

[Endorsed]: Filed Sept. 4th 1935. [18]

[Title of Court and Cause—No. 2658.]

## AMENDED ANSWER AND PETITION FOR RETURN OF LIBELLED AUTO.

Comes now, SADIE McGOWAN, a resident of Mono Lake, Mono County, California, through and by her attorney, Geo. A. Montrose, Esq., who respectfully answers, alleges and affirms, as to the said complaint filed herein, and petitions as follows:

1.

Alleges that she is the owner of a certain automobile, described as being a Chevrolet; Engine No. 348804, Serial No. 6CA02-8722, California License No. 9C2352. That the said automobile is now in the possession of the United States Marshal, held by virtue of a libel filed thereon. That the auto was taken from the possession of one, Peter McGowan, at the so-called Indian Colony, near Reno, Nevada, on July 4, 1935, allegedly upon the provisions of Sections 246 and 247 of Title 25, U.S.C.A., charging that the said automobile was used in conveying liquor into Indian Country.

2.

Defendant denies that she was in any way responsible for liquor, if such there was, being conveyed by the said auto into Indian Country, and further denies that liquor was conveyed by the said auto into Indian Country. [19]

3.

Denies that the Reno Indian Colony is an Indian Reservation or Indian Country, and therefore al-

leges that the said Indian Reno Colony is not within the jurisdiction of the United States District Court and does not come under the direct control of the United States laws.

4.

Asserts that the Reno Indian Colony is a part and portion of the State of Nevada and under the jurisdiction of the State courts.

5.

Asserts that the officers of the Indian Department were without the right to search upon the said Reno Indian Colony, and acted without a legal search warrant, and therefore in searching and taking the said auto exceeded their authority and did so without due process of law.

6.

Denies the jurisdiction of the United States District Court of the State of Nevada, in, or over, the said Reno Indian Colony, or the subject matter of this case.

7.

Denies the jurisdiction of the Indian Department of the United States over the said Reno Indian Colony, as Indian Country, and the lands there held and occupied by the Reno Indian Colony, and further alleges that Sections 246 and 247, Title 25, U.S.C.A. do not apply to said lands.

8.

Denies that the Reno Indian Colony is an Indian Reservation duly and regularly established by Con-

gressional action, or is the same Indian Country.

WHEREFORE answering the complaint filed herein defendant prays that the said libel be dismissed without cost to said defen- [20] dant, and respectfully petitions that the said automobile hereinbefore described, be returned to the said Sadie McGowan, as the owner thereof, together with all costs accrued, and for such other and further relief as to the Court may appear meet and just in the premises.

GEORGE A. MONTROSE
Attorney for Defendant.

State of Nevada
County of Douglas—ss.

GEO. A. MONTROSE being first duly sworn on behalf of the defendant in the above entitled action, says that he has read the foregoing answer and petition and knows the contents thereof, and that the same is true of his own knowledge, save as to the matters which are therein stated on information and belief and as to those matters be believes it to be true. That the said defendant is absent from the State of Nevada, and Gardnerville, Nevada, where her said attorney resides; and the facts are within the knowledge of this affiant, who is the agent and attorney of said defendant, and therefore makes this affidavit.

GEO. A. MONTROSE

Subscribed and sworn to before me this 7th day of October, 1935.

[Seal] FLORENCE C. HEITMAN
Notary Public, Douglas County, Nevada. My Commission Expires Sept. 17, 1938. [21]

[Title of Court and Cause.—No. 2660.]

LIBEL.

United States of America,
District of Nevada.—ss.

The Libel of the United States of America by E. P. CARVILLE, Esq., United States Attorney for the District of Nevada, its attorney, who in this case prosecuties in its behalf respectfully represents as follows:

I.

That there is in the custody of Alida C. Bowler, at Reno, Washoe County, State and District of Nevada, and within the jurisdiction of this Court, one Chevrolet Sedan, Motor Number 4527104, Serial No. 3AB-113486, Model 1928, Nevada license No. 22-407.

II.

That the said Alida C. Bowler is now and at all times mentioned was the duly appointed and acting Superintendent of the Reno Indian Colony, at near Reno, Washoe County, State and District of Nevada. [22]

III.

That on or about the 4th day of July, 1935, at near Reno, Washoe County, State and District of Nevada, within the Indian Country, to-wit: Reno Indian Colony, in the aforesaid and above described Chevrolet Sedan automobile was found a bottle of spirituous liquor, to-wit: whiskey, upon a search of said Chevrolet Sedan automobile.

IV.

That the said bottle of spirituous liquor, to-wit: whiskey, had theretofore been introduced on or about the 4th day of July, 1935, in the aforesaid Indian Country in violation of law, to-wit: Sections 246 and 247, T. 25, U. S. C. A., by DOCK DICK, ALBERT CHARLEY, the said DOCK DICK and ALBERT CHARLEY, being then and there Indians, and the said Alida C. Bowler being then and there, and at all times mentioned herein, an Indian agent.

V.

That libelant is informed and believes that DOCK DICK and ALBERT CHARLEY claim an interest in said Chevrolet Sedan automobile.

WHEREFORE, your Libelant respectfully prays that the aforesaid Chevrolet Sedan, Motor Number 4527104, Serial No. 3AB-113486, Model 1928, Nevada license No. 22-407, be forfeited and that the same may be disposed of according to law in such manner as the Court may direct; that a monition issue directed to the aforenamed parties to be and appear in and before the Court fifteen days after service of the aforesaid monition to interpose any claim that they may have upon the aforesaid automobile and in the event a return N. E. I. is made thereto that the said [23] monition be advertised in a newspaper of general circulation in the City of Reno, County of Washoe, State of Nevada, once a week for two weeks.

E. P. CARVILLE

United States of America,
District of Nevada.—ss.

E. P. CARVILLE, being first duly sworn, deposes and says: That he has read the foregoing Libel and knows the contents thereof; that the same is true except as to those matters alleged on information and belief and as to such matters he believes it to be true.

E. P. CARVILLE

Subscribed and sworn to before me this 31st day of July, 1935.

[Seal] O. E. BENHAM
Clerk, U. S. District Court.
By J. P. TODRIN
Deputy.

[Endorsed]: Filed July 31st, 1935. [24]

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[Title of Court and Cause—No. 2660.]

ORDER FOR WARRANT OF SEIZURE AND MONITION.

On reading the libel of information herein, verified and filed on the 31st day of July, 1935, for the seizure and condemnation of the following automobile, to-wit:

One Chevrolet Sedan, Motor Number 4527104, Serial No. 3AB-113486, Model 1928, Nevada license Number 22-407;

And it appearing therefrom that the aforesaid described automobile was and is in violation of Sec-

tions 246 and 247, T. 25, U. S. C. A., and that said libel of information states the facts and circumstances wherein the said Sections 246 and 247, T. 25, U. S. C. A. are and were violated, and it further appearing from said Libel of Information that the said described automobile is within the jurisdiction of this court, to-wit: under the control and custody of Alida C. Bowler, Superintendent of the Reno Indian Colony, at near Reno, Washoe County, State and District of Nevada, [25]

IT IS ORDERED, That a monition and warrant of arrest issue under the seal of this Court and against all persons who may claim the aforesaid described automobile, or who know or have anything to say why the same should not be condemned and forfeited to the United States of America, citing them to appear before this Court at Carson City, Nevada, in the Courtroom of said Court in the Federal Building, on the 3rd day of September, 1935, at ten o'clock A. M. for the same and to make their allegations in that behalf; and

IT IS FURTHER ORDERED, That a public notice of such monition be given by the United States Marshal for this District in the Reno Evening Gazette, a daily newspaper published at Reno, Washoe County, Nevada, by the publication of a notice of said monition and warrant of seizure once a week for two successive weeks and that a copy of such monition be personally served on the said Alida C. Bowler, at Stewart, Ormsby County, Nevada, and that a certified copy of said libel and a

copy of said monition be served upon the person, or persons claiming said automobile.

Dated: Carson City, Nevada, July 31st, 1935.

FRANK H. NORCROSS

District Judge.

[Endorsed]: Filed July 31st, 1935. [26]

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[Title of Court and Cause—No. 2660.]

MONITION AND WARRANT.

The President of the United States of America: To the Marshal of the United States of America for the District of Nevada, GREETINGS:

WHEREAS, a libel of information has been filed in the District Court of the United States of America for the District of Nevada, by E. P. CARVILLE, Esq., United States Attorney for said district, on behalf of the United States, against the following:

One Chevrolet Sedan, Motor Number 4527104, Serial No. 3AB-113486, Model 1928, Nevada license No. 22-407,

now in the custody and under the control of Alida C. Bowler, Superintendent of the Reno Indian Colony, at near Reno, Washoe County, State and District of Nevada, for the reasons and causes in said libel of information set forth, and praying that the usual process and monition and warrant of said Court issue for the seizure and arrest of said [27] automobile and that notice be given all parties

claiming an interest therein and that the same be confiscated, condemned, and forfeited to the United States and be disposed of by sale or in such manner as the Court may direct;

YOU ARE HEREBY COMMANDED TO ATTACH the aforesaid described automobile and to take it into your custody until the further order of the Court respecting the same.

YOU ARE FURTHER COMMANDED to give due notice to all persons claiming the said automobile, or who know or have anything to say why the same should not be confiscated, condemned and forfeited to the United States of America, by the publication of a copy of this monition and warrant in the Reno Evening Gazette, a newspaper of general circulation in this District, once a week for two successive weeks, and that any one claiming said automobile appear before this Court at a session thereof to be held at Carson City, Nevada, in the court room of said Court in the Federal Building on the 3rd day of September, 1935, at ten o'clock A. M. of said day then and there to interpose any claim for the same and to make their allegations in that behalf, and what you do and shall have done in the premises do you then and there make return thereof together with this writ.

WITNESS, the Honorable FRANK H. NORCROSS, Judge of said Court, at the City of Carson, in the U. S. District Court in and for the District of Nevada, this 31st day of July, in the year of our Lord one thousand nine hundred and thirty-five,

and of our Independence the one hundred and sixtieth.

[Seal] O. E. BENHAM
Clerk.
By J. P. TODRIN
Deputy Clerk. [28]

MARSHAL'S RETURN

I hereby certify that I received the within Monition and Warrant on August 1, 1935 and on August 1st in compliance therewith I did seize and take into my possession the within described Chevrolet Sedan, and did cause to be published in the Reno Evening Gazette, a newspaper of general circulation, a notice to all interested parties, and affidavit of such publication is attached hereto and made a part of this return.

Dated at Carson City, Nevada this 12th day of August, 1935.

HARRY C. GRAVELLE
United States Marshal
By H. D. DICKERSON
Chief Deputy

Civil Docket No. 2449. [29]

Form No. 38.

U. S. MARSHALL'S OFFICE,
* * * District of Nevada
Carson City, Nevada

August 1, 1935.

Sir:

You will please take notice that the Chevrolet Sedan—Nevada License 22-407 has been attached by me, at the suit of the United States for seizure and sale and will remain in my custody until the final disposition is made.

Respectfully yours,
HARRY C. GRAVELLE,
U. S. Marshal.

To master, owner, or person in charge of the above described Chevrolet Sedan. [30]

Form No. 39.

PUBLIC NOTICE OF ATTACHMENT.
Office of the Marshal of the United States,
* * * District of Nevada

Carson City, Nevada, August 1, 1935.

This Chevrolet Sedan—Nevada 22-407 having been attached by me and now being in my possession by virtue of a Monition and Warrant issued out of the District Court of the United States of the District of Nevada,

NOTICE IS HEREBY GIVEN that any person removing or attempting to remove said Chevrolet Sedan without my written permission, or in any way interfering with said Chevrolet Sedan, its tools or appurtenances or my duly authorized Deputy or Keeper in charge thereof, WILL BE PROSECUTED TO THE EXTENT OF THE LAW.

HARRY C. GRAVELLE,
U. S. Marshal. [31]

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[Title of Court and Cause.—No. 2660.]

NOTICE.

NOTICE TO ALL PERSONS INTERESTED:

NOTICE IS HEREBY GIVEN, that I, HARRY C. GRAVELLE, United States Marshal in and for the District of Nevada, have heretofore, to-wit: on the 1st day of August, 1935, under and by virtue of a Warrant of Arrest, heretofore issued out of the District Court aforesaid, seized and taken into my possession the following described property:

One Chevrolet Sedan, Motor Number 4527104, Serial No. 3 AB-113486, Model 1928, Nevada license Number 22-407;

AND NOTICE IS FURTHER GIVEN, That the 3rd day of September, 1935, at the hour of ten o'clock A. M. has been fixed as the time, and the Courtroom of the above entitled Court at Carson City, Ormsby County, State and District of Nevada, has been fixed as the place for the return of process issued to me in relation to the said [32] property, and all persons interested in the said

property are hereby notified to appear, at the aforesaid time and place, and show cause, if any they have, why the said property should not be condemned and forfeited to the United States of America.

HARRY C. GRAVELLE,
United States Marshal.
Aug. 2,9.

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Deputy U. S. Marshal. [33]

County of Washoe,
State of Nevada.—ss.

Leigh Sanford, being first duly sworn, deposes and says: That he is ~~Chief Clerk of~~ the publisher of the RENO EVENING GAZETTE, a daily newspaper published and printed and of general circulation in the City of Reno, County of Washoe, State of Nevada: That the Legal Notice of which a copy is hereunto attached, was first published in said newspaper in its issue dated Aug. 2, 1935, and was published in each of the following issues thereafter: Aug. 9 the date of the last publication being in the issue of Aug. 9, 1935.

LEIGH SANFORD.

Subscribed and sworn to before me, this the 9th day of August, 1935.

[Seal] PAUL J. SHEA,
Notary Public in and for the County of Washoe, State of Nevada.

[Endorsed]: Filed Aug. 12, 1935. [34]

[Title of Court and Cause.—No. 2660.]

STIPULATION.

IT IS HEREBY AGREED AND STIPULATED between E. P. CARVILLE, Esq., attorney for the plaintiff above named, and GEORGE L. VARGAS, Esq., attorney for the defendant above named and for DOCK DICK and ALBERT CHARLIE, alleged in the libel above entitled to claim an interest in the said defendant above named, that the said DOCK DICK and ALBERT CHARLIE, shall have up to and including the 14th day of September, 1935, within which to demurrer, answer, or otherwise plead and/or show cause in the above entitled action.

DATED this 30th day of August, 1935.

MILES N. PIKE,
Ass't. U. S. Attorney,
Attorney for Plaintiff.

GEORGE L. VARGAS,
Attorney for Defendant.

[Endorsed]: Filed Aug. 31st, 1935. [35]

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[Title of Court and Cause.—No. 2660.]

STIPULATION.

IT IS HEREBY AGREED AND STIPULATED between E. P. CARVILLE, Esq., attorney for the plaintiff above named, and GEORGE L. VARGAS, Esq., attorney for the defendant above

named and for DOCK DICK and ALBERT CHARLIE, alleged in the libel above entitled to have an interest in the said defendant above named, that the said DOCK DICK and ALBERT CHARLIE, shall have up to and including the 24th day of September, 1935, within which to demurr, answer or otherwise plead and/or show cause in the above entitled action.

DATED this 11th day of September, 1935.

E. P. CARVILLE,
By THOMAS O. CRAVEN,
Ass't. U. S. Atty.,
Attorney for Plaintiff.
GEORGE L. VARGAS,
Attorney for Defendant.

[Endorsed]: Filed Sept. 11th, 1935. [36]

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[Title of Court and Cause.—No. 2660.]

STIPULATION.

IT IS HEREBY AGREED AND STIPULATED between E. P. CARVILLE, Esq., attorney for the plaintiff above named, and GEORGE L. VARGAS, Esq., attorney for the defendant above named and for DOCK DICK and ALBERT CHARLIE, alleged in the libel above entitled to have an interest in the said defendant above named, that the said DOCK DICK and ALBERT CHARLIE, shall have up to and including the 4th day of October, 1935, within which to demurrer, answer,

or otherwise plead and/or show cause in the above entitled action.

DATED this 24th day of September, 1935.

GEORGE L. VARGAS,
Attorney for Defendant.
E. P. CARVILLE,
Attorney for Plaintiff.
By THOMAS O. CRAVEN.

[Endorsed]: Filed Sept. 24, 1935. [37]

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[Title of Court and Cause.—No. 2660.]

ANSWER AND PETITION FOR RETURN OF LIBELLED AUTOMOBILE.

COMES NOW, DOCK DICK and ALBERT CHARLEY, residents of Fresno County, California, by and through their attorney, GEORGE L. VARGAS, Esq., who respectfully answers, alleges and affirms as to the said complaint filed herein, and petitions as follows:

I.

Allege that the respondents, DOCK DICK and ALBERT CHARLEY, above named, are the owners of that certain automobile, described as being a Chevrolet Sedan, Motor Number 4527104, Serial Number 3AB-113486, Model 1928, Nevada License No. 22-407. That the said automobile is now in the possession of the United States Marshal. That the said automobile was taken from the [38] possession of DOCK DICK and ALBERT CHARLEY, your said respondents, at the so-called Reno Indian Colony, near Reno, Nevada, on or about July 4th,

1935, allegedly under the provisions of Sections 246 and 247 of Title 25, U. S. C. A., charging that the said automobile was used in conveying liquor into Indian Country.

II.

Respondents, and each of them, deny that a bottle of whskey and/or a bottle of any other spirituous liquor, or any spirituous liquor whatsoever was found in the aforesaid Chevrolet Sedan automobile. Deny that liquor was found in Indian Country. Deny that the Reno Indian Colony is "Indian Country" and therefore alleges that the said Reno Indian Colony is not Indian Country, and that the same is not within the jurisdiction of the United States District Court and does not come under the direct control of the United States Laws.

III.

Respondents, and each of them, deny that at the time and place alleged in the Libel above entitled they were in any way responsible for the introduction of spirituous liquor into Indian Country, and deny that spirituous liquor was introduced into Indian Country as alleged in the said Libel. Allege and assert that the Reno Indian Colony is a part of the State of Nevada and under the jurisdiction of the State Courts.

IV.

Allege and assert that the officers of the Indian Department were without the right of search upon the said Reno Indian Colony, and acted without

a legal search warrant, and therefore in searching and taking the said automobile exceeded their authority and did so without due process of law. [39]

V.

Respondents, and each of them, deny the jurisdiction of the Indian Department of the United States over the said Reno Indian Colony, and the lands there held and occupied by the Reno Indian Colony, and therefore Sections 246 and 247, Title 25, U. S. C. A. do not apply to said lands.

VI.

Respondents, and each of them, deny the jurisdiction of the United States District Court of the State of Nevada in, or over the said Reno Indian Colony, or the subject matter of this case.

WHEREFORE, having fully answered the Libel on file in the above entitled action, Respondents pray:

That the said Libel be dismissed without cost to the said Respondents, or either of them, and,

Respectfully petition that the said automobile hereinbefore described, be returned to them, the said DOCK DICK and ALBERT CHARLEY, as owners thereof with the right of possession thereto, together with all costs accrued, and for such other and further relief as to this Court may appear just and equitable in the premises.

GEORGE L. VARGAS,
Attorney for Respondents.

United States of America
State of Nevada
County of Washoe.—ss.

GEORGE L. VARGAS being first duly sworn, deposes and says, on behalf of the Respondents in the above entitled action; That he has read the foregoing answer and petition and knows the contents thereof, and that the same is true of his own knowledge, save as to those matters which are therein stated on information and belief, and as to those matters he believes it to be true. That the said Respondents are absent from the State of Nevada, and the County of Washoe, wherein their said attorney resides and has his offices; and that the facts are within the knowledge of this affiant who is the agent and attorney of the said Respondents, and therefore makes this affidavit.

GEORGE L. VARGAS. [40]

Subscribed and sworn to before me this 2nd day of October, 1935.

[Seal] RUTH VERNON,
Notary Public in and for the County of Washoe, State of Nevada.

Service, by copy, of the above and foregoing answer and petition is hereby admitted this 2nd day of October, 1935.

E. P. CARVILLE,
United States Attorney,
Attorney for Plaintiff.
By MILES N. PIKE,
Assistant United States Attorney.

[Endorsed]: Filed Oct. 3d, 1935. [41]

[Title of Court and Cause—Nos. 2658 and 2660.]

## OPINION AND DECISION.

NORCROSS, District Judge:

The above entitled cases are libels filed against two automobiles owned respectively by two Indians for having been used in transporting intoxicating liquor in and upon what is known and so designated by Federal statute as the Reno Indian Colony. As the cases present a similar question of fact and the same questions of law they were consolidated for trial. The question for determination is whether the said Reno Indian Colony is "Indian Country" and hence subject to the penal laws applicable thereto. 25 USCA, §247. If it may not be so classified then the proceedings must be dismissed and the property seized returned to the lawful owners thereof.

The said Reno Indian Colony consists of a tract of land slightly less than thirty acres lying within approximately a half mile east of the limits of the City of Reno, and between that [42] city and the City of Sparks about a mile further to the east on the main line of the Southern Pacific Railroad. Twenty acres of the tract were purchased from the then owners in the year 1917 for a consideration of $6000.00, which consideration was paid in equal parts from two items contained in the act making appropriations for the Interior Department for that year (39 Stat. 123, 143), reading:

> "For the purpose of procuring home and farm sites, with adequate water rights, and providing agricultural equipment and instruction

and other necessary supplies for the nonreservation Indians in the State of Nevada, $15,000: * * *.

"For the purchase of land and water rights for the Washoe Tribe of Indians, the title to which is to be held in the United States for the benefit of said Indians, $10,000, to be immediately available; for the support and civilization of said Indians, $5,000; in all, $15,000."

The remainder of the tract was purchased ten years later in pursuance of the provisions of a special act of Congress, approved May 10, 1926 (44 Stat. 496), reading:

"Be it enacted * * *, That the Secretary of the Interior * * * purchase a certain described tract of land containing approximately eight and forty-two hundredths acres, situated in section 7, township 19 north, range 20 east, * * * Provided, That the said land when purchased shall be added to and become a part of the site for the Reno Indian colony heretofore purchased by the Government; Provided further, That the sum of $4,300 is hereby authorized to be appropriated * * *, to be used in purchasing the tract of land hereinbefore described."

It is conceded that the State of Nevada by special act never relinquished jurisdiction over the land in question, nor was any procedure taken to comply with the general law (Nevada Comp. Laws, Sec. 2895) respecting relinquishment of jurisdiction.

Title to the land in question is in the United States. As said in Surplus Trading Co. v. Clark, 281 U. S. 650:

> "It is not unusual for the United States to own within a State lands which are set apart and used for public purposes. Such ownership and use without more do not withdraw the lands from the jurisdiction of the [43] State. On the contrary, the lands remain part of her territory and within the operation of her laws, save that the latter cannot affect the title of the United States or embarrass it in using the lands or interfere with its right of disposal."

The contention made on behalf of the Government is that the said Reno Indian Colony is in effect an Indian Reservation and hence should be regarded as Indian Country, as such reservations are generally so regarded. No authority is cited expressly holding that land similarly acquired by purchase and set apart for the benefit of Indian wards of the Government should be so classified.

The first use of the expression Indian Country appears in an act of Congress of July 22, 1790, 1 Stat. 137, dealing with the subject of trade and intercourse. See American Fur Co. v. United States, 2 Pet. 368, 29 U. S. 229. The statute now in force had its origin in the act of Congress of June 30, 1834, 4 Stat. 729. That statute defined the term Indian Country to be: "All that part of the United States west of the Mississippi, and not within the states of Missouri and Louisiana, or the territory

of Arkansas, and, also, that part of the United States east of the Mississippi river, and not within any state to which the Indian title has not been extinguished."

When the Revised Statutes were adopted by The Congress in 1873, the definition of Indian Country appearing in the said act of 1834 was omitted therefrom. Donnelly v. United States, 228 U. S. 243. Thereafter the courts without the aid of such controlling definition were called upon to determine whether in particular cases the laws relating to Indian Country had application. One of the earliest cases to deal with that situation was the case of United States v. Leathers, 26 Fed. Cas. No. 15,581, p. 897, 6 Sawy. 17, in this court. The opinion of Judge Hillyer, of date July 1, 1879, deals with the situation at length, holding [44] that the Pyramid Lake Indian Reservation was not only a lawfully established reservation, but was Indian country within the meaning of the statutes relating thereto. The opinion contains the following statement:

> "The policy has been to separate the Indian tribes from the rest of the people, and to set apart for their exclusive use specific portions of the public domain. The statutes cited show that 'Indian country' is the term used generally to describe country in the occupation of the Indians, to which their title or right of occupancy—a right always hitherto recognized by the United States—has not been extinguished."

It is now well settled that "a tract of land that, being a part of the public domain, is lawfully set

apart as an Indian reservation," is "Indian country." Donnelly v. United States, supra. It is also well settled that where land once Indian country is withdrawn therefrom and the Indian title thereto surrendered such land ceases to be Indian country. Clairman v. United States, 225 U. S. 551. Dick v. United States, 208 U. S. 340. It is also settled law that where land embraced within the Indian country is conveyed by the Indians or the title thereto surrendered subject to a condition that for a prescribed period of time such land so surrendered or conveyed shall be subject to the condition that the Federal laws relating to the possession or transportation of intoxicating liquor thereon shall continue to apply, that such land for such time remains subject to such laws. Clairman v. United States, supra; Dick v. United States, 208 U. S. 340; United States v. Whiskey, 108 U. S. 491. No such question, however, is involved in this case.

As the Indian has advanced in civilization it has apparently been the policy of the Department of Indian Affairs to acquire tracts of land immediately adjacent to cities and towns [45] upon which Indians could reside and have the advantages of closer relations with the white citizens. Indians residing upon such tracts have the advantage of the public school system, and there is also afforded greater opportunity for gainful employment. Such tracts of land have never been regarded as Indian Reservations. Indian Reservations are generally if not universally so designated. To distinguish its purpose the tract here in question was designated Reno

Indian Colony, and so recognized by that name by Federal statute. Tracts of land acquired and set apart for a particular purpose of Indian welfare are not a reservation, or otherwise to be regarded as Indian country in the sense that expression is used in the statute. Surplus Trading Co. v. Cook, 281 U. S. 647; United States v. Wurtzbarger, 276 Fed. 753; United States v. Myers, 206 Fed. 387; Benson v. United States, 44 Fed. 178.

It does not follow of course that where an offense involves merely an act respecting an Indian ward that such offense is affected by the fact that such ward is within or without the Indian country. The cases here under consideration, however, have their basis on the fact that the place must be Indian country, otherwise the act is not an offense.

It is the conclusion of the Court that the said Reno Indian Colony is not Indian country within the meaning of that expression as used in the Federal statutes. The libels should be and hereby are dismissed, and the property seized directed to be restored to the lawful owners thereof.

Dated this 26th day of May, 1936.

FRANK H. NORCROSS

District Judge.

[Endorsed]: Filed May 26th, 1936. [46]

[Title of Court and Cause—Nos. 2658 and 2660.]

NOTICE OF INTENTION TO MOVE FOR NEW TRIAL.

To PETE McGOWAN, claimant and defendant in case No. 2658, and his attorney, GEORGE A. MONTROSE, and to DOCK DICK and ALBERT CHARLEY, claimants and defendants in case No. 2660, and their attorney, GEORGE L. VARGAS:

You and each of you will please take notice that the United States of America, libelant in each of the above entitled cases, intends to move the above entitled Court for [47] an order granting a new trial in each of the above entitled libel proceedings, heretofore consolidated for trial.

Said motion will be made upon the following grounds:

1. That the decision is against law.

At the hearing of said motion the libelant will use and refer to the pleadings and papers on file and the "Minutes of the Court" in the above entitled causes.

Dated: This fourth day of June, 1936.

E. P. CARVILLE
United States Attorney
MILES N. PIKE
Asst. U. S. Attorney

Service of the above by copy is hereby admitted this fourth day of June, 1936.

GEORGE A. MONTROSE
Attorney for Pete McGowan
GEORGE L. VARGAS
Attorney for Dock Dick and
Albert Charley

[Endorsed]: Filed June 5th, 1936. [48]

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[Title of Court and Causes—Nos. 2658 and 2660.]

STIPULATION EXTENDING TIME TO FILE BILL OF EXCEPTIONS, DOCKET CAUSE AND FILE RECORD IN THE CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT.

IT IS HEREBY STIPULATED by the respective parties acting by and through their respective counsel that the libelant, the United States of America, have to and including the 6th day of July, 1936, to file its bill of exceptions, to docket the cause and to file the record in the Circuit Court of Appeals for the Ninth Circuit and the term of this Court [49] is for these purposes extended until said 6th day of July, 1936.

Dated: This 4th day of June, 1936.

E. P. CARVILLE
United States Attorney
MILES N. PIKE
Asst. United States Attorney.
Attorneys for Libelant.

GEORGE A. MONTROSE
Attorney for Pete McGowan
By GEORGE L. VARGAS.
Attorney for Dock Dick and
Albert Charley.

[Endorsed]: Filed June 5, 1936. [50]

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[Title of Court and Cause.—Nos. 2658 and 2660.]

ORDER EXTENDING TIME TO FILE BILL OF EXCEPTIONS, DOCKET CAUSE AND FILE RECORD IN CIRCUIT COURT OF APPEALS.

UPON STIPULATION of the parties hereto and upon motion of Miles N. Pike, Assistant United States Attorney,

IT IS HEREBY ORDERED that the plaintiff, the United States of America, have additional time to and including the 6th day of July, 1936, to file its Bill of Exceptions, to Docket the Cause and to file Record in the Circuit Court of Appeals for the Ninth Circuit, and the term of this Court is for that purpose extended until said sixth day of July, 1936.

Dated: This 5th day of June, 1936.

FRANK H. NORCROSS
District Judge

[Endorsed]: Filed June 29th, 1936. [51]

[Title of Court and Causes—Nos. 2658 and 2660.]

STIPULATION EXTENDING TIME TO FILE BILL OF EXCEPTIONS, DOCKET CAUSE AND FILE RECORD IN THE CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT.

IT IS HEREBY STIPULATED by the respective parties acting by and through their respective counsel that the libelant, the United States of America, have to and including the 8th day of August, 1936, to file its bill of exceptions, to docket the cause and to file the record in the Circuit Court of Appeals for the Ninth Circuit and the term of this [52] Court is for these purposes extended until said 8th day of August, 1936.

Dated: This 29th day of June, 1936.

E. P. CARVILLE
United States Attorney
THOMAS O. CRAVEN
Asst. United States Attorney.
Attorneys for Libelant.
GEORGE A. MONTROSE
Attorney for Pete McGowan
GEORGE L. VARGAS
Attorney for Dock Dick and Albert Charley.

It is ordered.

Dated: June 30th, 1936.

FRANK H. NORCROSS
District Judge

[Endorsed]: Filed June 30th, 1936. [53]

[Title of Court and Cause.—Nos. 2658 and 2660.]

STIPULATION EXTENDING TIME TO FILE BILL OF EXCEPTIONS, DOCKET CAUSE AND FILE RECORD IN THE CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT.

IT IS HEREBY STIPULATED by the respective parties acting by and through their respective counsel that the libelant, the United States of America, have to and including the 10th day of September, 1936, to file its bill of exceptions, to docket the cause and to file the record in the Circuit Court of Appeals for the Ninth Circuit and the term of this Court is for these purposes extended until the 10th day of September, 1936. [54]

DATED: This 6th day of August, 1936.

E. P. CARVILLE,
United States Attorney,
MILES N. PIKE,
Assistant U. S. Attorney,
Attorneys for Libelant.
GEORGE A. MONTROSE,
Attorney for Pete McGowan.
GEORGE L. VARGAS,
Attorney for Dock Dick and
Albert Charley.

It is ordered:

LEON R. YANKWICK,
District Judge.

[Endorsed]: Filed August 6th, 1936. [55]

[Title of Court and Cause.—Nos. 2658 and 2660.]

## FINDINGS OF FACT.

The above entitled causes came regularly on for trial on the 26th day of October, 1935, before the above entitled court sitting without a jury. Libelant was represented by Miles N. Pike, Esq., Assistant United States Attorney, and claimant in case No. 2658 was represented by George A. Montrose, Esq., and claimants in case No. 2660 were represented by George L. Vargas, Esq. Upon stipulation of counsel the Court ordered the two causes consolidated for purposes of trial. Evidence was adduced on behalf of the respective parties and thereafter briefs were filed [56] and the causes submitted to the Court or decision.

Now, therefore, by reason of the premises the Court makes its findings of fact as follows, to wit:

I.

That on July 4, 1935, and at all times since Alida C. Bowler has been and now is the duly appointed and acting superintendent of the Reno Indian Colony, Washoe County, State and District of Nevada.

II.

That said Reno Indian Colony consists of a tract of land containing 28.38 acres, or thereabouts, and is situated near the easterly city limits, City of Reno, Washoe County, State of Nevada, and between said City of Reno and the City of Sparks, Washoe County, State of Nevada.

III.

That some 20 acres of said tract of land comprising said Reno Indian Colony was deeded by deed dated March 8, 1917, by Ione Gould Lewis and John A. Lewis, her husband, as grantors to the United States of America, as grantee, and that the consideration paid to said grantors by the grantee was the sum of Six Thousand ($6,000) Dollars; the said consideration being paid in equal parts from two items contained in the Interior Department appropriation act for the fiscal year 1917, (39 Stat. 1, 123, 143). The items read as follows:

> "For the purpose of procuring home and farm sites, with adequate water rights, and providing agricultural equipment and instruction and other necessary supplies for the non-reservation Indians in the State of Nevada, $15,000; Provided, That no part of this appropriation shall be expended for mileage, salaries, or expenses of employees, * * *." [57]
>
> "For the purchase of land and water rights for the Washoe Tribe of Indians, the title to which is to be held in the United States for the benefit of said Indians, $10,000, to be immediately available; for the support and civilization of said Indians, $5,000; in all, $15,000."

IV.

That eight and thirty-eight hundredths (8.38) acres or thereabouts of the tract of land comprising said Reno Indian Colony was deeded by deed dated January 22, 1927, by Lorens M. Christensen and his wife, Marie Christensen, as grantors, to

the United States of America, as grantee, and that the consideration paid by the said grantee to the said grantor was Four Thousand One Hundred and Sixty Dollars ($4,160); that said consideration was paid from funds appropriated under Act of May 10, 1926, (Public No. 207), (44 Stat. L., Chapter 278, P. 496) reading as follows:

> "Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized to purchase a certain described tract of land containing approximately eight and forty-two hundredths acres, situated in section 7, township 19 north, range 20 east, Mount Diablo meridian, in Nevada; the proper description and area of said tract to be definitely determined by metes and bounds: Provided, That the said land when purchased shall be added to and become a part of the site for the Reno Indian colony heretofore purchased by the Government: Provided, further, That the sum of $4,300 is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated, said appropriation, or so much thereof as may be needed, to be used in purchasing the tract of land hereinbefore described." [58]

V.

That the automobile referred to in case No. 2658 was used on July 4, 1935, in introducing intoxicating liquor on the tract of land comprising the said Reno Indian Colony.

VI.

That the automobile referred to in case No. 2660 was used on July 4, 1935, in introducing intoxicating liquor on the tract of land comprising the said Reno Indian Colony.

VII.

That Sadie McGowan, claimant in cause number 2658, is the owner of the Chevrolet automobile which is the subject matter of a libel therein.

VIII.

That Dock Dick and Albert Charlie, claimants in cause number 2660, are the owners of the Chevrolet Sedan which is the subject matter of a libel therein.

CONCLUSIONS OF LAW.

I.

The Court concludes as a matter of law that the said tract of land comprising the Reno Indian Colony is not "Indian country" within the meaning of that expression as the same is used in the Federal statutes.

II.

That the libels in cause No. 2658 and 2660 should be dismissed and the property seized in the said libel proceedings be restored to the lawful owners thereof.

DATED: This 17th day of July, 1936.

(Signed) FRANK H. NORCROSS,
District Judge.

[Endorsed]: Filed July 17th, 1936. [59]

In the District Court of the United States of America, in and for the District of Nevada.

No. 2658.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ONE CHEVROLET AUTOMOBILE,

Defendant.

No. 2660.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ONE CHEVROLET SEDAN,

Defendant.

DECREE.

The above entitled causes came regularly on for trial on the 26th day of October, 1935, before the above entitled court sitting without a jury. Libelant was represented by Miles N. Pike, Esq., Assistant United States Attorney, and claimant in case No. 2658 was represented by George A. Montrose, Esq., and claimants in case No. 2660 were represented by George L. Vargas, Esq. Upon stipulation of counsel the Court ordered the two causes consolidated for purposes of trial. Evidence was adduced on behalf of the respective parties and thereafter briefs were filed and the causes submitted to the Court for decision.

The Court having heretofore made its findings of [60] fact and conclusions of law based upon said findings of fact.

IT IS ORDERED, ADJUDGED AND DECREED that the libel in cause No. 2658 be and the same is hereby dismissed, and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the said Chevrolet Automobile, defendant in cause No. 2658, the same being property seized herein, be restored to Sadie McGowan, claimant herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the libel in cause No. 2660 be and the same is hereby dismissed, and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the said Chevrolet Sedan, defendant in cause No. 2660, the same being property seized herein, be restored to Dock Dick and Albert Charley, claimants herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that libelant pay all costs and charges in said libel proceedings and for storage on said automobiles, in both of said causes No. 2658 and No. 2660, and that said automobiles be returned to said claimants without costs or charges to them, or any of them, by reason of seizure or storage on said property.

DECREE RENDERED: May 26, 1936.

DECREE SIGNED: July 17th, 1936.

FRANK H. NORCROSS,
District Judge.

[Endorsed]: Filed July 17th, 1936. [61]

[Title of Court and Cause.—Nos. 2658 and 2660.]

## PETITION FOR APPEAL.

TO THE HONORABLE FRANK H. NORCROSS, JUDGE OF THE DISTRICT COURT AFORESAID,

The above named plaintiff feeling aggrieved by the decree signed and filed herein in the above entitled action, on the 17th day of July, A. D. 1936, hereby appeals from said decree to the United States Circuit Court of Appeals for the Ninth Circuit; that the errors upon which such appeal is based are contained in the assignment of errors filed herewith; that petitioner prays that its appeal be allowed and that a citation be issued in accordance with law; and that an authenticated transcript of record, proceedings, and exhibits on the trial be forwarded [62] to the United States Circuit Court of Appeals for the Ninth Circuit at San Francisco, California.

DATED this 21st day of August, A. D. 1936.

E. P. CARVILLE,
United States Attorney,
MILES N. PIKE,
Asst. U. S. Attorney,
Attorney for Appellant.

[Endorsed]: Filed Aug. 21st, 1936. [63]

[Title of Court and Cause.—Nos. 2658 and 2660.]

## ASSIGNMENT OF ERRORS.

COMES NOW, the United States of America, plaintiff herein, and files the following assignment of errors upon which it will rely on appeal to the United States Circuit Court of Appeals for the Ninth Circuit:

(1) That the Court erred in making and entering its conclusion of law Number One, as follows:

> "The Court concludes as a matter of law that the said tract of land comprising the Reno Indian Colony is not 'Indian country' within the meaning of that expression as the same is used in the Federal Statutes."

for the reason that such conclusion of law is not supported [64] by the facts found.

(2) That the Court erred in making and entering its conclusion of law Number Two, as follows:

> "That the libels in cause No. 2158 and 2660 should be dismissed and the property seized in the said libel proceedings be restored to the lawful owners thereof."

for the reason that such conclusion of law is not supported by the facts found.

(3) That the decree filed herein on July 17, 1936, is contrary to law.

WHEREFORE, the plaintiff and appellant prays that the decree of the District Court of the United

States for the District of Nevada, entered herein on the 17th day of July, 1936, be reversed.

DATED this 21st day of August, 1936.

E. P. CARVILLE,
United States Attorney.
MILES N. PIKE,
Asst. United States Attorney,
Attorney for plaintiff and appellant.

[Endorsed]: Filed, Aug. 21st, 1936. [65]

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[Title of Court and Causes—Nos. 2658 and 2660.]

ORDER ALLOWING APPEAL

The plaintiff in the above entitled action, having filed herein its petition for an appeal from the decree signed and filed herein on the 17th day of July, A. D. 1936, now, on motion of E. P. CARVILLE, United States Attorney, attorney for petitioner,

IT IS ORDERED that an *appeal the* United States Circuit Court of Appeals for the Ninth Circuit from the said decree heretofore entered herein be, and the same hereby is allowed, and that a certified transcript of the record be forwarded to the

United States Circuit Court of Appeals for [66] the Ninth Circuit at San Francisco, California.

By the Court.

FRANK H. NORCROSS
District Judge.

Attest:

O. E. BENHAM
Clerk, U. S. District Court.
By O. F. PRATT,
Deputy.

[Endorsed]: Filed Aug 21st, 1936. [67]

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[Title of Court and Causes—Nos. 2658 and 2660.]

## BILL OF EXCEPTIONS

BE IT REMEMBERED that on the trial of this cause in the above entitled Court, at the October, 1935 Term thereof, the Honorable Frank H. Norcross, Judge of said Court presiding, the following proceedings were had, to-wit: at the trial held on October 29, 1935, the Court entered its order consolidating the two cases for the purposes of the trial. Evidence was adduced, and matters were stipulated in substance as follows:

That on the 4th day of July, 1935, the two automobiles named as defendants in the above libel proceedings were used in introducing intoxicating liquor into the Reno Indian Colony, a tract of land in Washoe County, Nevada, near the [68] City of Reno, Nevada, and on said date were seized for alleged violation of Section 247, Title 18, U.S.C.A.,

and placed in the custody of Alida C. Bowler, then and at all times since, the duly appointed and acting Superintendent of said Reno Indian Colony.

That Sadie McGowan, claimant in cause number 2658, is the owner of the Chevrolet automobile which is the subject matter of a libel therein.

That Dock Dick and Albert Charlie, claimants in cause number 2660, are the owners of the Chevrolet Sedan which is the subject matter of a libel therein.

That said Reno Indian Colony consists of a tract of land containing 28.38 acres, or thereabouts, and is situated near the easterly city limits, City of Reno, Washoe County, State of Nevada, and between said City of Reno and the City of Sparks, Washoe County, State of Nevada.

That some twenty (20) acres of said tract of land comprising said Reno Indian Colony was deeded by deed dated March 8, 1917, by Ione Gould Lewis and John A. Lewis, her husband, as grantors, to the United States of America, as grantee, and that the consideration paid to said grantors by the grantee was the sum of Six Thousand ($6,000) Dollars, (Plaintiff's Exhibit No. 2); the said consideration being paid in equal parts from two items contained in the Interior Department appropriation act for the fiscal year 1917, (39 Stat. 1:, 123, 143). The items read as follows:

> "For the purpose of procuring home and farm sites, with adequate water rights, and providing agricultural equipment and instruction and other necessary supplies for the non-reservation Indians in the State of Nevada,

$15,000; Provided, That no part of this appropriation shall be expended for mileage, salaries, or expenses of employees, * * *." [69]

"For the purchase of land and water rights for the Washoe Tribe of Indians, the title to which is to be held in the United States for the benefit of said Indians, $10,000, to be immediately available; for the support and civilization of said Indians, $5,000; in all $15,000."

That eight and thirty-eight hundredths (8.38) acres or thereabouts, of the tract of land comprising said Reno Indian Colony was deeded by deed dated January 22, 1927, by Lorens M. Christensen and his wife, Marie Christensen, as grantors, to the United States of America, as grantee, and that the consideration paid by the said grantee to the said grantor was Four Thousand One Hundred and Sixty Dollars ($4,160.), (Plaintiff's Exhibit No. 1); that said consideration was paid from funds appropriated under Act of May 10, 1926, (Public No. 207), (44 Stat. L., Chapter 278, P. 496) reading as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized to purchase a certain described tract of land containing approximately eight and forty-two hundredths acres, situated in Section 7, Township 19 north, range 20 east, Mount Diablo Meridian, in Nevada; the proper

description and area of said tract to be definitely determined by metes and bounds: Provided, That the said land when purchased shall be added to and become a part of the site for the Reno Indian colony heretofore purchased by the Government: Provided, further, That the sum of $4,300 is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated, said appropriation, or so much thereof as may be needed, to be used in purchasing the tract of land hereinbefore described." [70]

That both said twenty (20) acre tract and said eight and thirty-eight hundredths (8.38) acre tract have at all times since acquisition by the United States been used for the purposes expressed in the Acts of Congress authorizing their acquisition, and generally for the use and benefit of the Indians of the State of Nevada and particularly the Washoe tribe of Indians.

That no plat was filed, pursuant to the Statutes of Nevada, covering the land comprising the Reno Indian Colony: that there was no compliance by the United States with the language of Section 2896, N.C.L., 1929, (Repealed, 1933 Statutes of Nevada, P. 2), reading, in part

"That an accurate description and plat of such lands so acquired, verified by the oath of some officer of the general government having knowledge of the facts, shall be filed with the governor of this state,"

so as to give the United States exclusive jurisdiction over said lands; that at the trial counsel for respective parties stipulated that the Court might take judicial notice of the Statutes of Nevada.

The Plaintiff's Exhibits 3 and 4 are blue prints from the office records of said Superintendent Alida C. Bowler, and depict respectively the twenty (20) acre tract deeded to the United States by the Lewis's in 1917, and the eight and thirty-eight hundredths (8.38) acre tract deeded to the United States by the Christensens' in 1927, and also the relative position of the said two tracts comprising the Reno Indian Colony to each other (Plaintiff Exhibits 3 and 4). That said eight and thirty-eight hundredths [71] (8.38) acre tract acquired in 1927 is shown on what is about the upper one-third of Plaintiff's Exhibit No. 4; that the 20 acres acquired in 1917 and the 8.38 acres acquired in 1927 are separated by the "Scott Street Road" as marked on Plaintiff's Exhibit No. 4; that there are two small inserts on the southernmost edge of the east half of the 8.38 acres tract, as depicted in Plaintiff's Exhibit No. 4, marked "Baptist Mission" and "Public School", respectively, which were not included in the Christensen (1927) deed to the United States; that both of said automobiles, here the subject of seizure, were used in introducing intoxicating liquor into that specific portion of the Reno Indian Colony, acquired in 1917, about 100 feet north of the northernmost boundary of the central

square, bearing the numerals "362" on Plaintiff's Exhibit No. 3.

E. P. CARVILLE
United States Attorney
MILES N. PIKE
Assistant United States Attorney

SERVICE of the within Bill of Exceptions by copy is hereby admitted.

Dated: This 21st day of August, 1936.

GEORGE A. MONTROSE
Attorney for defendant and for claimant in case No. 2658.
GEORGE L. VARGAS
Attorney for defendants and for claimants in case No. 2660.

[Endorsed]: Filed Aug 21st, 1936. [72]

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[Title of Court and Causes—Nos. 2658 and 2660.]

## STIPULATION ON PROPOSED BILL OF EXCEPTIONS

It is hereby stipulated and agreed by the parties hereto, acting by and through their respective counsel, that the proposed bill of exceptions, as prepared by appellant and filed herewith is full and complete, when considered in connection with plaintiff's Exhibits 1, 2, 3 and 4, referred to therein and the same be settled and allowed as bill of exceptions herein.

It is further stipulated and agreed that plaintiff's Exhibits 1, 2, 3 and 4, introduced in evidence

upon the trial of the above entitled cause in the District Court may be sent up in connection with the appeal prosecuted [73] herein, as original exhibits to the Circuit Court of Appeals for the Ninth Circuit, instead of being copied in the record on appeal.

Dated: This 21st day of August, A. D. 1936.

E. P. CARVILLE
United States Attorney.
By MILES N. PIKE
Asst. U. S. Attorney
Attorney for libelant.
GEORGE A. MONTROSE
Attorney for defendant and for claimant in case No. 2658
GEORGE L. VARGAS
Attorney for defendants and for claimants in case No. 2660.

[Endorsed]: Filed Aug. 21st, 1936. [74]

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[Title of Court and Cause.—Nos. 2658 and 2660.]

## ORDER SETTLING BILL OF EXCEPTIONS ON STIPULATION.

The parties to the above entitled action, through their respective counsel of record, having stipulated in writing that the proposed bill of exceptions, presented herewith, consisting of pages number 1 to 5, inclusive, contains a true statement of the proceedings had upon the trial of the cause,

and contains all the material evidence produced at the trial of said cause, and the same having been duly considered by the judge of this court, who presided at the trial of said cause, and the same appearing to be in all respects proper,

IT IS ORDERED AND CERTIFIED that the above and fore- [75] going instrument, consisting of pages 1 to 5, inclusive, be and the same hereby is approved, settled, and allowed as the bill of exceptions in said cause.

By the Court:

FRANK H. NORCROSS,
Judge United States District Court for the District of Nevada.

Attest:

O. E. BENHAM,
Clerk, United States District Court for the District of Nevada.
By O. F. PRATT,
Deputy.

[Endorsed]: Filed Aug. 21st, 1936. [76]

[Title of Court and Cause.—Nos. 2658 and 2660.]

PRAECIPE.

TO HONORABLE O. E. BENHAM, CLERK OF THE ABOVE ENTITLED COURT:

Please prepare and certify record on appeal to the United States Circuit Court of Appeals for the Ninth Circuit in the above entitled action and including therein the following papers and documents:

Entitled in Case No. 2658

(1) Libel.

(2) Order for warrant of seizure and monition.

(3) Monition and warrant with Marshal's return. [77]

(4) Notice.

(5) Order extending time to plead.

(6) Answer and petition for return of libeled automobile.

(7) Amended answer and petition for return of libeled automobile.

Entitled in Case No. 2660

(8) Libel.

(9) Order for warrant of seizure and monition.

(10) Monition and warrant with Marshal's return.

(11) Notice.

(12) Stipulation extending time to plead.

(13) Stipulation extending time to plead.

(14) Stipulation extending time to plead.

(15) Answer and petition for return of libeled automobile.

Entitled in both cases No. 2658 and No. 2660.

(16) Opinion and decision of the Court dated and filed May 26, 1936.

(17) Notice of intention to move for new trial filed June 6, 1936.

(18) Stipulation extending time.

(19) Stipulation extending time.

(20) Stipulation extending time.
(21) Findings of fact, signed and filed July 17, 1936.
(22) Final decree signed and filed July 17, 1936.
(23) Petition for appeal.
(24) Assignment of errors. [78]
(25) Order allowing appeal.
(26) Citation on appeal.
(27) Bill of exceptions.
(28) Stipulation on bill of exceptoins, original exhibits.
(29) Order settling bill of exceptions on stipulation.
(30) Clerk's certificate.
(31) And this praecipe, dated August 21, 1936.

Pursuant to stipulation of August 21st, 1936, you are requested to forward with said record on appeal to the United States Circuit Court of Appeals for the Ninth Circuit, in the above action, Plaintiff's original Exhibits 1, 2, 3 and 4, instead of copying said Exhibits into the record on appeal.

DATED: This 21st day of August, 1936.

E. P. CARVILLE,
United States Attorney for the District of Nevada.
MILES N. PIKE,
Assistant United States Attorney.

The foregoing praecipe for the transcript of record on appeal and forwarding of original exhibits therewith is hereby approved by the appellees.

GEORGE A. MONTROSE,
Attorney for defendant and for claimant in case No. 2658.

GEORGE L. VARGAS,
Attorney for defendants and for claimants in case No. 2660.

[Endorsed]: Filed August 21st, 1936. [79]

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[Title of Court and Cause.—Nos. 2658 and 2660.]

CERTIFICATE OF CLERK, U. S. DISTRICT COURT.

United States of America,
District of Nevada.—ss.

I, O. E. BENHAM, Clerk of the District Court of the United States for the District of Nevada, do hereby certify that I am custodian of the records, papers and files of the said United States District Court for the District of Nevada, including the records, papers and files in the cases of United States of America, Plaintiff, vs. One Chevrolet Automobile, Defendant, and United States of America, Plaintiff, vs. One Chevrolet Sedan, Defendant, said cases being Nos. 2658 and 2660, respectively, on the law docket of said Court.

I further certify that the attached transcript, consisting of 83 typewritten pages numbered from

1 to 83, inclusive, contains a full, true and correct transcript of the proceedings in said causes and of all papers filed therein together with the endorsements of filing thereon, as set forth in the Praecipe filed [80] in said causes and made a part of the transcript attached hereto, as the same appears from the originals of record and on file in my office as such Clerk in the City of Carson, State and District aforesaid.

And I further certify that the original Citation, issued in said causes, is hereto attached; and accompanying this record, in accordance with stipulation of counsel filed herein on August 21, 1936, are plaintiff's original exhibits as set forth in said stipulation and praecipe, to-wit:

Plaintiff's Exhibit No. 1, being certified copy of deed to part of the land of the Reno Indian Colony;

Plaintiff's Exhibit No. 2, being certified copy of deed to certain other lands of Reno Indian Colony;

Plaintiff's Exhibit No. 3, being blue print of certain land of the Reno Indian Colony; and

Plaintiff's Exhibit No. 4, being a plat of part of the lands of the Reno Indian Colony.

WITNESS my hand and the seal of said United States District Court, this 8th day of September, A. D. 1936.

[Seal]

O. E. BENHAM,
Clerk, U. S. District Court,
District of Nevada. [81]

[Title of Court and Cause.—Nos. 2658 and 2660.]

## CITATION.

THE PRESIDENT OF THE UNITED STATES OF AMERICA,

To PETE McGOWAN, claimant and defendant in case No. 2658, and his attorney, GEORGE A. MONTROSE, and to DOCK DICK and ALBERT CHARLEY, claimants and defendants in case No. 2660, and their atorney, GEORGE L. VARGAS:

You are hereby cited and admonished to be and appear in the United States Circuit Court of Appeals for the Ninth Circuit, at the city of San Francisco, California, thirty days from and after the date this citation bears date, pursuant to an appeal allowed and filed in the office of the clerk of the District Court of the United States for the District of Nevada, from a decree in said cause, filed [82] in said cause, filed and entered on the 17th day of July, 1936, wherein the United States of America is appellant and you are appellee, to show cause, if any there be, why the decree rendered against the said appellant as in said appeal mentioned should not be corrected, and why speedy justice should not be done the parties in that behalf.

Witness, the Honorable Frank H. Norcross, Judge of the United States District Court for the District of Nevada, this 21st day of August, 1936.

FRANK H. NORCROSS,
Judge, United States District Court
for the District of Nevada.

Due, personal service of the within citation, by copy, is hereby admitted this 21st day of August, A. D. 1936.

GEORGE A. MONTROSE,
GEORGE L. VARGAS,
Attorneys for Appellees.

[Endorsed]: Filed Aug. 21st, 1936. [83]

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[Endorsed]: No. 8327. United States Circuit Court of Appeals for the Ninth Circuit. United States of America, Appellant, vs. Pete McGowan, Claimant of One Chevrolet Coupe, Engine No. 348804, and Dock Dick and Albert Charley, Claimants of One Chevrolet Sedan, Engine No. 4527104, Appellees. Transcript of Record. Upon Appeal from the District Court of the United States for the District of Nevada.

Filed September 10, 1936.

PAUL P. O'BRIEN,
Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

Proceedings had in the United States Circuit Court of Appeals for the Ninth Circuit

## UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT

Excerpt from Proceedings of Friday, February 26, 1937

Before WILBUR and GARRECHT, Circuit Judges, NETERER, District Judge

*Order of submission*

There being no appearance in open court on behalf of appellees, and no brief of appellees having been filed herein, Ordered appeal in above cause argued by Mr. Miles N. Pike, Assistant United States Attorney, counsel for the appellant, and submitted to the court for consideration and decision.

Excerpt from Proceedings of Monday, March 15, 1937

Before WILBUR, GARRECHT, and MATHEWS, Circuit Judges

*Order directing filing of opinion and filing and recording of decree*

By direction of the court, it is ordered that the type-written opinion this day rendered by the court, in above cause be forthwith filed by the clerk, and a decree be filed and recorded in the minutes of this court in accordance with the opinion rendered.

No. 8327. March 15, 1937

UNITED STATES OF AMERICA, APPELLANT

*vs.*

PETE MCGOWAN, CLAIMANT OF ONE CHEVROLET COUPE, ENGINE NO. 348804, AND DOCK DICK AND ALBERT CHARLEY, CLAIMANTS OF ONE CHEVROLET SEDAN, ENGINE NO. 4527104, APPELLEES

Upon Appeal from the District Court of the United States for the District of Nevada

Before WILBUR and GARRECHT, Circuit Judges, and NETERER, District Judge

NETERER, *District Judge:* This appeal is from a decree of dismissal upon two libels filed against two automobiles owned by appellees, praying condemnation and forfeiture of said automobiles, for having

introduced into the Reno Indian Colony, near Reno, Nevada, a bottle of whiskey found upon each car, in violation of 25 U. S. C. A. 247.

The determining factor is whether the "Indian Colony" is "Indian Country."

The land was purchased by the United States, twenty acres March 8, 1917, for the sum of $6,000.00, being paid in equal parts from two items of the appropriation to the Interior Department for the fiscal year 1917 (39 Stat. 1, 123, 143). The items read as follows:

"For the purpose of procuring home and farm sites, with adequate water rights, and providing agricultural equipment and instruction and other necessary supplies for the nonreservation Indians in the State of Nevada, $15,000; Provided, That no part of this appropriation shall be expended for mileage, salaries, or expenses of employees, * * *.

"For the purchase of land and water rights for the Washoe Tribe of Indians, the title to which is to be held in the United States for the benefit of said Indians, $10,000, to be immediately available; for the support and civilization of said Indians, $5,000; in all $15,000."

That 8.38 acres were purchased by the United States January 22, 1927 for the sum of $4,160.00, paid from funds appropriated under the Act of May 10, 1926 (44 Stat. L. Chap. 278, p. 496) reading in part as follows:

"Be it enacted * * * That the Secretary of the Interior be, and he is hereby, authorized to purchase eight and forty-two hundredths acres, * * * to * * * become a part of the site for the Reno Indian Colony heretofore purchased by the Government; Provided, further, That the sum of $4,300 is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated, * * *."

The court found the automobiles were owned by the appellees. Appellees have not appeared in this court. The court, therefore, has not the benefit of a brief on appellees' behalf.

The land in issue was bought by the United States from Mexico by treaty of Guadalupe Hidalgo, February 2, 1848 (9 Stat. 922). The Indians never had possessory title to the land. It was never "Indian Country" by reason of ancient traditional continuous Indian rights until the title was divested by some affirmative act of the United States or abandonment by the Indians. The United States was thereafter divested of title to the land by its Public Land Laws.

This land was therefore not part of the vast extent of the domain to which any Indian title attached, nor has the land been set apart or designated exclusively for an Indian tribe. The State of Nevada was not ousted of jurisdiction of sovereignty over this land by the purchase of the land by the United States from private parties. U. S. v. Cornell, 2 Mason 60 (Mass.). The purchase of this land by the United States "for the purpose of procuring home and farm sites, with adequate water rights * * * for the non-reservation Indians in the State of Nevada * * *" or "for the purchase of land and water rights for the Washoe Tribe of Indians, the title to

which is to be held in the United States for the benefit of said Indians * * *", does not oust the jurisdiction or sovereignty of the State of Nevada over such land. The 17th par. of Sec. 8, Article I of the United States Constitution provides that:

"* * * all places purchased by the consent of the legislature of the State in which the same shall be * * *,"

will confer sovereignty of the United States over the land.

"To oust this State of its jurisdiction * * * it must be shown that an offense committed within the acknowledged limits of the state, is clearly exclusively cognizable by the laws and Courts of the U. S. * * *, it must have been committed out of the jurisdiction of any state. * * *." People v. Godfrey, 6 N. Y. Com. Law Rep. 347 at 350 (17 Johnson 225).

The land was purchased by the United States for a specific purpose without the consent of the legislature of the State of Nevada and the land "is within the field of operation of her laws, save that they can have no operation which would impair the executive use of the reservation [land purchased] for the purposes for which it is maintained." Surplus Trading Co. v. Cook, 281 U. S. 647 at 651. This land has no status of Indian lands from any viewpoint of approach. It was purchased for home and farm sites, and water rights, for non-reservation Indians in the State of Nevada and for the Washoe Tribe of Indians. This right the United States may enjoy without impairment. This court may not legislate and extent the criminal laws of the United States over the farm sites under the guise that the land is "Indian Country". That is a matter for the Congress by and with the consent of the Legislature of the State of Nevada. The State's jurisdiction therefore still remains. 1 Kent Comm. 403, 404. U. S. v. Penn, 48 Fed. 669, cites Judge Story on the Constitution, § 1127, as saying:

"If there has been no cession by the state of the place, although it has been constantly occupied and used, under purchase or otherwise, by the United States, for a fort, arsenal, or other constitutional purpose, the state jurisdiction still remains complete and perfect."

It is obvious that the "Indian Colony" is not "Indian Country."

Affirmed.

(Endorsed:) Opinion. Filed Mar. 15, 1937. Paul P. O'Brien, Clerk.

United States Circuit Court of Appeals For the Ninth Circuit

No. 8327

UNITED STATES OF AMERICA, APPELLANT

*vs.*

PETE McGOWAN, ETC., ET AL., APPELLEES

*Judgment*

Upon appeal from the District Court of the United States for the District of Nevada.

This cause came on to be heard on the Transcript of the Record from the District Court of the United States for the District of Nevada and was duly submitted:

On consideration whereof, It is now here ordered and adjudged by this Court that the decree of the said District Court in this cause be, and hereby is affirmed.

(ENDORSED:) Judgment. Filed and entered, March 15, 1937. Paul P. O'Brien, Clerk.

No. 8327

UNITED STATES OF AMERICA, APPELLANT

*vs.*

PETE MCGOWAN, CLAIMANT OF ONE CHEVROLET COUPE, ENGINE NO. 348804, AND DOCK DICK AND ALBERT CHARLEY, CLAIMANTS OF ONE CHEVROLET SEDAN, ENGINE NO. 4527104, APPELLEES

*Application for stay of mandate*

Whereas, on the 15th day of March 1937, a decree was entered in the above entitled cause in favor of appellees and against Appellant United States of America, and

Whereas, the question determined by said decree was that the "Reno Indian Colony" was not "Indian Country", and

Whereas, the determination of said question relates to the jurisdiction of the United States, both civil and criminal, over said tract of land and may have application to numerous other similar tracts of land, and

Whereas, said Appellant wishes additional time in which to determine whether any action by way of application for certiorari, or appeal will be taken from said decree.

Appellant, United States of America, respectfully make this application for a stay of mandate for the additional period of thirty days from April 14, 1937.

E. P. CARVILLE,
*United States Attorney,*
*Attorney for Appellant.*

Attorneys for Appellees hereby stipulate, and join in the foregoing application requesting stay of mandate, it being understood that the signing hereof does not, and in no way shall constitute an appearance of the undersigned attorneys in this proceeding.

GEORGE L. VARGAS,
GEORGE A. MONTROSE,
*Attorneys for Appellees.*

It is so ordered:

CURTIS D. WILBUR,
*Senior United States Circuit Judge.*

Dated APRIL 13, 1937.

(ENDORSED:) Order staying issuance of mandate. Filed, April 14, 1937. Paul P. O'Brien, Clerk.

United States Circuit Court of Appeals for the Ninth Circuit

No. 8327

UNITED STATES OF AMERICA, APPELLANT

*vs.*

PETE MCGOWAN, CLAIMANT, ETC., APPELLEES

*Certificate of Clerk, U. S. Circuit Court of Appeals for the Ninth Circuit, to record certified under Rule 38 of the Revised Rules of the Supreme Court of the United States*

I, Paul P. O'Brien, as Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, do hereby certify the foregoing seventy-seven (77) pages, numbered from and including 1 to and including 77, to be a full, true and correct copy of the entire record excluding original exhibits of the above-entitled case in the said Circuit Court of Appeals, made pursuant to request of Hon. Stanley Reed, Solicitor General of the United States, counsel for the appellant, and certified under Rule 38 of the Revised Rules of the Supreme Court of the United States, as the originals thereof remain on file and appear of record in my office.

Attest my hand and the seal of the said United States Circuit Court of Appeals for the Ninth Circuit, at the City of San Francisco, in the State of California, this 11th day of May A. D. 1937.

Paul P. O'Brien,

[SEAL] PAUL P. O'BRIEN, *Clerk.*

U. S. GOVERNMENT PRINTING OFFICE: 1937

*Order allowing certiorari*

Filed October 11, 1937

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit is granted. And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

Mr. Justice BLACK took no part in the consideration and decision of this application.

U. S. GOVERNMENT PRINTING OFFICE: 1937